



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 8
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August 22, 2000

Ref: 8EPR-EP

Mr. Pat Schumacher
Bureau of Reclamation
P. O. Box 640
Durango, Colorado 81301

RE: Review of the Final Supplemental Environmental
Impact Statement, Animas-La Plata Project,
Colorado and New Mexico, CEQ #000250

Dear Mr. Schumacher:

The Region 8 Office of the U.S. Environmental Protection Agency has reviewed the Final Supplemental Environmental Impact Statement (FSEIS) for the Animas-La Plata (ALP) Project in La Plata and Montezuma Counties, Colorado, and San Juan County, New Mexico. As you know, on June 23, 2000, we transmitted EPA's compliance determination regarding the Clean Water Act Section 404(b)(1) process for the ALP Project to your office. We are enclosing a copy of that letter with these comments so our compliance determination letter will become part of the FSEIS comment file. On the same date, June 23, 2000, EPA Region 8 also provided its review of the preliminary FSEIS to the Department of the Interior (DOI), and we are enclosing a copy of that correspondence for your FSEIS comment file as well.

Pursuant to EPA's authorities under §309 of the Clean Air Act (CAA), §404 of the Clean Water Act (CWA), the Council on Environmental Quality (CEQ) November 1980 Memorandum to Heads of Agencies regarding the CWA §404(r) exemption process, and the National Environmental Policy Act (NEPA), EPA provides the following comments for your consideration.

EPA's role regarding NEPA compliance for ALP

As we noted in our comments in April 2000 on the Draft Supplemental EIS, EPA has expressed serious concerns with the proposed Project since 1979. EPA Region 8 provided comments on the draft and final environmental statements in 1979 and 1980 and on the Draft and Final Supplemental EISs in 1992 and 1996. EPA senior officials have met and discussed the Project with Reclamation senior staff. In 1998, EPA and Reclamation entered into a Cooperating Agency Agreement that provided for EPA staff's assistance in the preparation of the Draft and Final Supplemental EIS. During these meetings, and on several occasions since November 1998, we have discussed our concerns with respect to: 1) the impacts of the proposed Project, 2) the



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analysis in the EIS process, and 3) the harm ALP operations would have on the Navajo Nation's and the Jicarilla Apache Tribe's abilities to secure their future water projects. Since that time we have satisfactorily resolved the first and second issues and now suggest that you consider means to further investigate options that might reduce the impact ALP could have on the Navajo Nation and Jicarilla Apache Tribe.

EPA concerns with ALP operations upon other Indian Tribes

As noted in my letter to DOI, EPA offers the following suggestions to ameliorate the impact of operating the ALP Project upon the downstream Tribes in New Mexico:

1) Set priorities for construction of Indian water projects in the San Juan Basin based on currently unmet public health water supply needs, giving first priority to meeting those needs.

2) Consider measures to allow the Colorado Ute Tribes to market their water to downstream Indian Tribes in New Mexico.

3) In the event of a shortage of flows needed for fish, allocate water among all users of federal water projects in the San Juan River basin, including users of the ALP Project. A basin-wide shortage obligation for all users of federal water facilities, including those using the ALP Project, would avoid placing this burden solely on future projects proposed by the Jicarilla-Apache Tribe or the Navajo Nation.

Consequently we recommend that the following stipulation be included in the your Record of Decision (ROD):

In the event of a shortage of flows needed for fish, water in the San Juan River Basin will be shared among all users of federal water facilities in the San Juan River, including the users of the Animas-La Plata Project.

EPA suggested improvements to the Environmental Commitments

We concur with the basic plan to monitor water quality in conjunction with the Southern Ute Tribe, Colorado, and New Mexico. EPA suggests that this data, along with information on appropriate thresholds for triggering the proposed non-compliance measures, be compiled annually for public distribution.

Although we concur with the wetland mitigation commitments to compensate for the loss of 134 acres of wetland/riparian habitat on a 1.5 to 1 ratio, we remain concerned about the ability to do so without augmentation of water supply to the La Plata River. We are concerned that the decision whether to pipe water from Ridges Basin to the La Plata for wetland mitigation will not be made concurrently with a decision to build a water supply line to the La Plata for municipal or industrial purposes. We recommend you proceed immediately as planned and purchase lands for

wetland mitigation sufficient to meet the required mitigation ratio without consideration of using new water supply to the La Plata River. We suggest reconvening the Project beneficiaries before construction begins to ascertain their plans for La Plata M&I deliveries.

We also agree with the broad intention to monitor and, potentially, mitigate the native fish impacts in the Animas River. EPA would appreciate being kept informed regarding this issue. Again, we recommend the information and data be compiled annually for public distribution, showing appropriate thresholds for triggering the proposed mitigation in the La Plata River.

Should you have any questions concerning EPA's comments, please contact me at (303) 312-6308.

Sincerely,

original signed by

/s/ Rebecca W. Hanmer
Acting Regional Administrator

Enclosures:

Letter from EPA to Reclamation, June 23, 2000, 5 pages

Letter from EPA to the Department of the Interior, June 23, 2000, 3 pages

cc: Ernest House, Sr., Ute Mountain Ute Tribe, Towaoc, Colorado
John Baker, Jr., Southern Ute Tribe, Ignacio, Colorado
Kelsey A. Begaye, Navajo Nation
Rodger Vincenti, Jicarilla Apache Tribe, Dulce, New Mexico